

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Thomas Walker, et al.,

2:14-cv-01475-JAD-NJK

Plaintiffs

Order Overruling Defendants' Objections

V.

City of North Las Vegas, et al.,

[ECF No. 92¹]

Defendants

10

The City of North Las Vegas objects to Magistrate Judge Koppe’s May 13, 2016, order² granting a motion to compel and imposing Rule 37 sanctions on this defendant for discovery misconduct.³ I overrule the objections because the City has not demonstrated that Judge Koppe’s ruling was clearly erroneous or contrary to law.

Background

16

Thomas Walker and Cathy Cataldo sue the City of North Las Vegas, Officer Paul Maalouf, and Officer Travis Snyder for killing Pinky and Blue, their two pet dogs, during the execution of a narcotics search warrant.⁴ According to the complaint, Officers Maalouf and Snyder were surveilling Walker and Cataldo's home on the morning of September 14, 2012, when Walker decided to let Pinky and Blue into the yard to go to the bathroom.⁵ As Pinky and Blue scurried about

21

23

¹ I find this motion suitable for disposition without oral argument. L.R. 78-1.

² ECF No. 89.

3 ECE No. 92

⁴ ECE No. 88 at ¶ 45

5 *Id. at* 22-24

1 the yard, Walker reentered the house and soon heard gunshots.⁶ Walker rushed outside and shouted,
 2 “You don’t have to—” but it was too late.⁷ Pinky and Blue had been shot at least six times from
 3 behind.⁸

4 For the last year, Walker and Cataldo have attempted to obtain discovery on related incidents
 5 in which the City used force against pets.⁹ They served an interrogatory on the City, seeking
 6 information regarding “NLVPD’s use of force against dogs from February 13, 2010[,] through
 7 February 13, 2015.”¹⁰ The City objected, Walker and Cataldo moved to compel, and the magistrate
 8 judge ordered the City to produce “all internal affairs documents regarding prior incidents involving
 9 the use of force against dogs by NLVPD officers” for in camera review within one week.¹¹ The City
 10 moved to extend, explaining in an affidavit that it intends to produce “all internal affairs documents
 11 regarding prior incidents involving the use of force against dogs by NLVPD officers from February
 12 13, 2010, through February 13, 2015,” but “it cannot be accomplished by the time allowed by the
 13 Court.”¹² The magistrate judge granted the motion to extend and—a month later—the court granted
 14 Walker and Cataldo’s motion to compel.¹³

15 But when the City turned over its documents, they only spanned February 13, 2010, through
 16 September 14, 2012, the date of Pinky and Blue’s death.¹⁴ So, Walker and Cataldo filed another
 17 motion to compel, which the magistrate judge granted—finding that the City had engaged in
 18

19 ⁶ *Id.* at ¶¶ 24, 28.

20 ⁷ *Id.* at ¶ 30.

21 ⁸ *Id.* at ¶¶ 29–31.

22 ⁹ See ECF Nos. 89, 96.

23 ¹⁰ ECF No. 96 at 4.

24 ¹¹ ECF No. 37.

25 ¹² ECF No. 38 at 12, ¶ 4.

26 ¹³ See ECF No. 89 at 2.

27 ¹⁴ *Id.*

1 gamesmanship at best or, at worst, had attempted to mislead the court.¹⁵ The magistrate judge
 2 sanctioned the City under Rule 37 and ordered it to pay the Walker and Cataldo's attorney's fees
 3 incurred in prosecuting their motion to compel.¹⁶ The City timely objected to that ruling.¹⁷

4 **Discussion**

5 A district judge may reconsider any pretrial order of a magistrate judge if it is "clearly
 6 erroneous or contrary to law."¹⁸ The clearly erroneous standard applies to a magistrate judge's
 7 findings of fact.¹⁹ "A finding is clearly erroneous when[,] although there is evidence to support it,
 8 the reviewing body on the entire evidence is left with the definite and firm conviction that a mistake
 9 has been committed."²⁰ A magistrate judge's order "is contrary to law when it fails to apply or
 10 misapplies relevant statutes, case law[,] or rules of procedure."²¹ The district judge "may affirm,
 11 reverse, or modify" the ruling made by the magistrate judge, or remand the ruling to the magistrate
 12 judge with instructions.²²

13 The City argues that the magistrate judge's sanction order was clearly erroneous because the
 14 City mistakenly interpreted the order granting Walker and Cataldo's motion to compel. Although
 15 the magistrate judge ordered the City to produce "all internal affairs documents regarding *prior*
 16 incidents involving the use of force against dogs by NLVPD officers" for in camera review, the City
 17 now claims that it understood this to mean all documents regarding incidents from February 13,
 18

19
 20 ¹⁵ *Id.* at 2, 7.

21 ¹⁶ *Id.* at 7; ECF No. 98.

22 ¹⁷ ECF No. 92.

23 ¹⁸ 28 U.S.C. § 636(b)(1)(A).

24 ¹⁹ *Concrete Pipe & Prods. of Cal., Inc. v. Constr. Laborers Pension Trust*, 508 U.S. 602, 623 (1993).

25 ²⁰ *Id.* at 622 (internal quotation marks and citation omitted).

26 ²¹ *Glob. Advanced Metals USA, Inc. v. Kemet Blue Powder Corp.*, No. 3:11-cv-00793, 2012 WL
 27 3884939, at *3 (D. Nev. Sept. 6, 2012).

28 ²² L.R. I.B. 3-2.

1 2010, through the date of Pinky and Blue's deaths in September 2012.²³

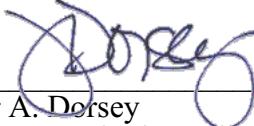
2 Even if there were evidence to support the City's assertion that it actually misinterpreted the
3 magistrate judge's order, that would not render the magistrate judge's ruling clearly erroneous or
4 contrary to law. But I need not rest my decision on that consideration because the City filed an
5 affidavit stating that it knew exactly what the order meant: that it had been ordered to produce
6 documents "regarding prior incidents involving the use of force against dogs by NLVPD officers
7 from February 13, 2010, through February 13, 2015"—not September 14, 2012.²⁴ Thus, the City
8 could not have been confused about the scope of the order.

9 **Conclusion**

10 Accordingly, IT IS HEREBY ORDERED that Defendant City of North Las Vegas's

11 **objections [ECF No. 92] are OVERRULED.**

12 Dated this 2nd day of September, 2016

13 
14 Jennifer A. Dorsey
15 United States District Judge

26 _____
27 ²³ See ECF No. 92 at 3; ECF No. 97 at 2.

28 ²⁴ ECF No. 38 at 12, ¶ 4.